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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

23 Cr. 180 (KPF)

5 NESTOR ISIDRO PEREZ SALAS,

6 Defendant.

7 -----x

Arraignment

8 May 30, 2024

9 3:05 p.m.

10 Before:

11 HON. KATHERINE POLK FAILLA,

12 District Judge

13
14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
17 Southern District of New York

18 BY: NICHOLAS S. BRADLEY

ALEXANDER LI

Assistant United States Attorneys

19 UNITED STATES DEPARTMENT OF JUSTICE

20 BY: TARA J. ARNDT

Trial Attorney - Narcotic and Dangerous Drug

21 JAMES R. FROCARRO

22 Attorney for Defendant

23
24 Also Present:

25 ERIKA DE LOS RÍOS, Spanish Interpreter

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(Case called)

THE LAW CLERK: Will counsel please state their names for the record, beginning with the government.

MR. BRADLEY: Good afternoon, your Honor. Nicholas Bradley and Alexander Li for the government. Also at counsel table is Tara Arndt, trial attorney with the Narcotic and Dangerous Drug Section.

THE COURT: Thank you. Good afternoon to each of you. Welcome, Mr. Froccaro. Welcome, sir.

MR. FROCCARO: Good afternoon, your Honor. James Froccaro, for Mr. Perez Salas, who is present beside me, your Honor, with a Spanish interpreter.

THE COURT: Thank you so much.

Does your client prefer to be addressed as Mr. Perez Salas?

MR. FROCCARO: That will do, Judge.

THE COURT: Thank you.

Mr. Perez Salas, at this time, sir, you are receiving assistance from a Spanish language interpreter. If at any time you cannot hear or cannot understand what is being said, please let me know or please let your attorney know because we want to be sure that you can hear everything.

THE DEFENDANT: Yes. Very well. Thank you.

THE COURT: You may have anticipated my question, sir, but I will ask it nonetheless. Have you heard and understood

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1 everything that I have said so far in this proceeding?

2 THE DEFENDANT: Yes, everything.

3 THE COURT: Thank you, sir.

4 Mr. Perez Salas, one other thing. Before you arrived
5 in the courtroom, you may recall that at your first appearance
6 in court you had an attorney appointed for you, or you may not
7 have known that, but there was an attorney appointed for you.
8 Mr. Froccaro has entered an appearance in this case and, as a
9 result, there wasn't the need for the appointed attorney, and
10 so I discharged that appointed attorney and Mr. Froccaro will
11 be representing you.

12 Do you understand that, sir?

13 THE DEFENDANT: Yes, I understand. Thank you.

14 THE COURT: And Mr. Bradley, may I confirm with the
15 government that, pursuant to our discussions in the robing
16 room, it was acceptable to the government that I could
17 discharge Mr. Patel without requiring him to be here?

18 MR. BRADLEY: Yes, your Honor.

19 THE COURT: Thank you very much.

20 And Mr. Froccaro, the same question, sir.

21 MR. FROCCARO: I have no objection, Judge.

22 THE COURT: Thank you so much.

23 All right. Mr. Bradley, another question for you,
24 please.

25 You are aware, and particularly in light of amendments

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1 to Federal Rule of Criminal Procedure 5(f), that you and your
2 prosecution team have certain disclosure obligations. You have
3 seen orders that I have issued in related cases in other
4 criminal cases.

5 May I please confirm on behalf of your team, sir, that
6 you are aware of and will comply with your discovery and
7 disclosure obligations in this case?

8 MR. BRADLEY: Yes, your Honor. And we will continue
9 to do so.

10 THE COURT: Much appreciated. Thank you.

11 Mr. Froccaro, I have been given a copy of a document
12 that's captioned in the upper right-hand corner a sealed
13 superseding indictment. It has the docket number S1 23 Cr.
14 180.

15 Do you have a copy of that document, sir?

16 MR. FROCCARO: I do, your Honor.

17 THE COURT: And have you -- to the best of your
18 understanding -- to the best of your understanding, has this
19 document been translated for your client or read to your client
20 in Spanish?

21 MR. FROCCARO: It has, your Honor. It was read to him
22 in Spanish by one of the interpreters at the last court
23 appearance. He's seen the whole thing. He understands it,
24 Judge.

25 THE COURT: Thank you.

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1 May I ask him some questions to arraign him on the
2 documents?

3 MR. FROCCARO: Of course, your Honor.

4 THE COURT: Thank you.

5 Mr. Perez Salas, it is -- I'm going to have you sit
6 down, sir, because I care about being able to hear you and
7 that's easier if you are close to the microphone.

8 Your attorney has advised me that you have been given
9 a copy of the sealed superseding indictment with respect to you
10 in this case. Is that correct, sir?

11 THE DEFENDANT: Yes, that is correct.

12 THE COURT: Has this document been translated for you
13 into Spanish?

14 THE DEFENDANT: Yes.

15 THE COURT: Have you had an opportunity to review this
16 document with one of your attorneys?

17 THE DEFENDANT: Yes.

18 THE COURT: Would you like me to read this document
19 into the record of the court or do you waive its public
20 reading?

21 THE DEFENDANT: No.

22 THE COURT: I will take no as -- that I don't need to
23 read it into the record of the court.

24 How do you plead, sir?

25 THE DEFENDANT: Not guilty.

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1 THE COURT: We will record your not-guilty plea.
2 Thank you very much.

3 Mr. Bradley, may I hear from you or your colleagues
4 about what discovery looks like in this case and a schedule, if
5 there is one, for its production.

6 MR. BRADLEY: Yes, your Honor.

7 This is a very substantial investigation into
8 leadership of the Sinaloa cartel stretching back for many
9 years, and we expect there will be a large volume of discovery.
10 But as to this particular defendant, the discovery would
11 consist in significant part of video recorded meetings with the
12 defendant, law enforcement reports and records, accompanying
13 photographs.

14 In addition to that, your Honor, there would be
15 evidence related to controlled purchases of fentanyl from the
16 defendant and his coconspirators and accompanying laboratory
17 reports.

18 There would also be electronic evidence including from
19 electronic device extractions.

20 We have spoken with Mr. Froccaro. I do expect that we
21 would be able to produce a significant amount of that discovery
22 by the end of next week, with additional rolling productions to
23 follow.

24 And in terms of where we go from here, in terms of a
25 schedule, I believe the parties are in agreement that the Court

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1 setting a date in approximately 90 days would be appropriate to
2 facilitate that discovery production and that review of that
3 discovery.

4 THE COURT: Sir, to your understanding, are there
5 witnesses who require notification under the Crime Victim
6 Rights Act?

7 MR. BRADLEY: We have been in touch with those
8 individuals, your Honor, and we will continue to do so and
9 ensure they are notified of this and other court appearances.

10 THE COURT: Thank you.

11 Separately, are there postarrest statements that need
12 to be disclosed to Mr. Perez Salas?

13 MR. BRADLEY: No, your Honor.

14 THE COURT: And are there other things specific to
15 this defendant that I should know that I don't know?

16 MR. BRADLEY: Not at this time, your Honor.

17 THE COURT: Okay. Thank you.

18 Mr. Froccaro, recognizing that you are just on this
19 case, sir, has the government accurately explained to me the
20 discussions that you have had and the time frame that we are
21 looking at in the first instance?

22 MR. FROCCARO: Yes. Regarding discovery, yes, and
23 regarding the time frame for the next conference, your Honor.

24 THE COURT: Okay. Sir, are there things specific to
25 your client that you want to make me aware of? I realize that

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1 it is very early and things will come up.

2 MR. FROCCARO: Nothing, Judge.

3 The only thing, and I know that the Court would be
4 reluctant to get involved with a Bureau of Prisons matter, but
5 they have him in the hole, and I'm kind of hoping he doesn't
6 stay in there for the duration or the pendency of the case,
7 Judge, because it's like a hell hole, for another way to put
8 it. It's not a nice place to be.

9 If there is anything -- if I can't convince them to
10 let him out of it, I may approach your Honor again sometime in
11 the future.

12 THE COURT: Please do. Okay. I will know that we
13 have had this conversation. All right. Thank you.

14 One other thing, Mr. Froccaro. At some point I
15 imagine the government is going to make an application under
16 the Speedy Trial Act. I don't know if that came up at
17 Mr. Perez Salas's presentment. Do you want to take a moment,
18 perhaps with the assistance of an interpreter, to speak with
19 him --

20 MR. FROCCARO: I don't think we need it, Judge. There
21 is so much discovery in this case, and I have no problem with
22 consenting to the exclusion until the next court appearance.

23 THE COURT: Okay. And I appreciate that. May I
24 understand, then, that when you next have a chance to really
25 sit down with your client that you can answer any questions he

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1 might have about the Speedy Trial Act.

2 MR. FROCCARO: Sure, Judge. If you want me to go into
3 it now with him, I will, if you do, but --

4 THE COURT: It's your call, sir.

5 MR. FROCCARO: I don't think we need it, Judge.

6 THE COURT: I will know that you will speak to him
7 about it later.

8 MR. FROCCARO: Yes, Judge.

9 THE COURT: Okay. Mr. Mendez may I have a date about
10 90 days out please, sir.

11 THE LAW CLERK: September 5, 2024, at 12 p.m.

12 THE COURT: Is that a date and time that works for the
13 government?

14 MR. BRADLEY: It is, your Honor.

15 THE COURT: Is that a date and time that works for the
16 defense?

17 MR. FROCCARO: Yes, Judge. Thank you.

18 THE COURT: Okay. Thank you.

19 Mr. Bradley, is there an application from the
20 government under the Speedy Trial Act?

21 MR. BRADLEY: There is, your Honor.

22 The government would respectfully move that this Court
23 exclude time under the Speedy Trial Act from today's date
24 through the next scheduled court appearance on September 5 of
25 2024 under Title 18 of the United States Code 3161(h)(7)(A).

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1 The government would respectfully submit that the proposed
2 exclusion of time would serve the ends of justice so that the
3 government can produce discovery and complete that production
4 of discovery and so defense counsel can then review that
5 discovery with an eye toward potential motion practice.

6 THE COURT: Thank you very much.

7 And Mr. Froccaro, did I understand that you don't have
8 an objection?

9 MR. FROCCARO: No objection, your Honor.

10 THE COURT: Okay. May I speak to your client directly
11 about this issue, sir?

12 MR. FROCCARO: Of course, your Honor.

13 THE COURT: Thank you.

14 Mr. Perez Salas, you have just been hearing us discuss
15 the Speedy Trial Act, and to the extent you have any questions
16 about it, Mr. Froccaro will answer those at a later date. For
17 now, suffice it to say that the Speedy Trial Act provides
18 certain deadlines within which certain things must be done and
19 that would include your case proceeding to trial. But there
20 are reasons or bases for me to exclude time under the act.
21 It's like pushing pause on a video. And one of the very common
22 exclusions is at the beginning of the case, between the first
23 and second conference, we exclude time because there is a
24 finding to be made and that finding is that the ends of justice
25 served by excluding the period of time outweigh the interest

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1 that you have and that the public in general has in you getting
2 to trial more quickly. That would be here, sir, because as we
3 have just heard from the government there is a lot of discovery
4 to produce, you need to review it, your attorney needs to
5 review it, you need to have an opportunity to have meaningful
6 discussions with him and to understand the options that you
7 have available. And given that, that's why we are going out
8 the 90 days to give you that opportunity. I want to be sure
9 that you have all of the time that you need.

10 So I am making that finding under the Speedy Trial
11 Act. I am excluding time through our next conference which is
12 September 5 at 12 p.m.

13 Do you understand what I have just said, sir?

14 THE DEFENDANT: Yes, I understand it all, your Honor,
15 and thank you very much.

16 THE COURT: Thank you as well, sir. Any questions,
17 you can ask Mr. Froccaro.

18 Mr. Bradley, are there other issues we should be
19 addressing this afternoon?

20 MR. BRADLEY: No, your Honor, not from the government.

21 THE COURT: Thank you.

22 Mr. Froccaro, anything else this afternoon?

23 MR. FROCCARO: No, your Honor.

24 THE COURT: All right. Welcome aboard, sir. Thank
25 you all very much.

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MR. FROCCARO: Thank you, Judge. Take care.

THE DEFENDANT: Thanks to you.

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